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September 21, 2016

The Honorable Jim Runestad
State Representative
124 Capital Ave.
PO BOX 30014
Lansing, MI 48909-7514

Re: Support of HR 327 and HB 4141

Dear Rep. Runestad:

I am writing you today as a practicing divorce/contested custody lawyer since 2007. I would like to share my support of the Shared Parenting Act because I believe an overhaul of the Michigan Custody Act of 1970 is long overdue and will indeed benefit Michigan's children.

Let's face it, Michigan's Child Custody Act was written back in 1970—over 45 years ago. A lot has changed since 1970; moreover, personal, family, and social values have all shifted. Society today has a different definition of what constitutes a “family” and a different definition of “marriage” than it did 45 years ago. There is no longer a social stigma associated with having children out of wedlock. A “family” does not necessarily constitute two parents who are man and woman and or who are husband and wife. Parents to a custody dispute can be two loving fathers or two loving mothers, and establishing a solid framework to protect children's rights to have a relationship with both parents is important. Children need both parents; many modern scientific studies support this assertion. The Shared Parenting Time Act reinforces the expectation that both parents are expected to cooperatively co-parent with each other, unless one parent's involvement would be contrary to the best interest of the child.

Since May 2011, I have represented 135 litigants in custody disputes. Out of the 135 cases, 16 would fall into a category that one would define as “high conflict.” Of the high conflict cases, 7 of the 16 involve parents engaged in some level of behavior that was intended to interfere with the parenting rights of the other parent, also referred to as parental alienation. In reviewing the outcomes of my overall custody cases, here is the summary:

● **Percentage of Cases where Mom Has Primary Physical Custody-(i.e.- Mom has kids 275 to 313 days or more per year) = 36%**

● **Percentage of Cases where Dad Has Primary Physical Custody-(i.e.-Dad has kids 275 to 313 days or more per year) = 11%**

● **Percentage of Cases where parents shared Joint Custody-(i.e.-Both parents have the children on a shared schedule, and each enjoys at least 140 days or more per year with the kids. The parenting schedule includes weekend and mid-week overnights for both parents, and expanded time for summer months.) = 53%**

Now, let's talk about the 11 high conflict cases. These facts are taken from cases where I have represented a party. Any one of these clients will come and testify about what can only be described as "their legal nightmare."

Case No. 1-Mom made six (6) allegations of Sexual Abuse of the children against Dad, and all allegations were unsubstantiated after being fully investigated by police, CPS, and the Child Assessment Center. Each time he was falsely accused, Dad would lose his parenting time until he was finally exonerated, and the whole process usually took between 3 to 6 months (or longer). The process to prove his innocence involved Dad submitting to repeated polygraphs, hiring a criminal defense lawyer, defending against motions which suspended his parenting time or required him to pay for supervised parenting time, etc. I will never forget when Mom had the kids prepare signs to place in her front window by the kids which read, "I hate you daddy." Whenever Dad came to pick up his kids for his "supervised" parenting time, these signs would appear in the window. Luckily, the supervisor was a great witness, but she could not believe that a parent would encourage the children to engage in such disrespect towards the other parent. Mom engaged in all sorts of behaviors to malign professionals against Dad, including "counselor shopping." She would switch the children to a new counselor as soon as the old counselors got savvy to what was actually happening in the family. One counselor swore in an affidavit that one of these kids brought a "hate" scrapbook to a counseling session in order to show the counselor "how much she hated daddy." On top of all of this, the Judge did not sanction Mom, did not take custody from Mom, and did not even order Mom pay Dad's lawyer fees. Mom simply got her hand slapped. In the end, Dad's reputation was totally ruined even though he was never substantiated or convicted.

Case No. 2-Mom instigated four allegations of sexual abuse of children against Dad. Again, all allegations were unsubstantiated and no criminal convictions were sought against Dad. After the fourth allegation, the Judge ordered CPS to look into the matter. CPS found that Mom's false allegations indeed would amount to an "emotional injury" of the children. CPS filed a petition and opened an abuse/neglect case; to make matters worse, the children were actually removed from Mom's home and placed into foster care! Dad was joined in those abuse/neglect proceedings, but not as a respondent. Even though the abuse petition was not against him, Dad was still not allowed to take custody of the children because of all the other (false) allegations Mom had made against him. Judge warned Mom that any more false allegations use of sexual abuse would be "dealt with" but in reality, she got away with it all with no consequences to her. Currently, this case is still ongoing, the Judge ordered the kids to be in counseling; however, Mom has maligned the counselors against Dad, by telling them that "Dad molested the girls and

got away with it." Mom still has primary custody, and she is still denying Dad's requests to expand his parenting time. I was recently retained on this case, and was able to get an order for both parties to submit to forensic psychological evaluations. The Judge denied my client's motions to review or modify custody based on the repeated false allegations of sexual abuse. Judge ordered that Dad failed to prove a "change in circumstances and or good cause" for the Court to review and modify the current custody order with Mom as the primary parent. The conclusion that Dad did meet the threshold to review custody is shocking when one considers the 4 false allegations of sexual abuse against him and the abuse/neglect petition against Mom.

Case No. 3--Mom falsified a claim of domestic violence against Dad, and either hit or scratched herself in the face to look like she had been injured. Dad was arrested and plead guilty to domestic assault –but under the diversion statute for first time offenders. He was innocent, but plead guilty because he would not have a criminal record and he did not have any money. Then Mom got a PPO against Dad, and she used that to deny Dad any contact with the child. When Dad began to seek custody and parenting time rights, Mom falsified a PPO violation. During the criminal contempt hearing for the alleged PPO violation, Mom's key witness broke down and said he was sorry for "lying" to the police and that there was no violation of the PPO. Mom was not fined or sanctioned by the Court. After spending over \$50,000, Dad was finally able to secure joint custody (equal parenting time).

Case No. 4--Mom told dad that her attorney told her to lie to the police to get him picked up and removed from the marital home for the crime of domestic violence. Luckily, the client was recording this particular conversation, and he was able to play it for the police (i.e.-the wife saying that she was going to lie to the police), and so the prosecutor refused to press charges. Because of the "alleged" domestic violence incident, Mom used the police involvement to secure a PPO against husband. She lied to secure an ex-parte order for exclusive use and possession of the marital home, and got an ex-parte order giving her sole custody, limited Dad's parenting time to supervised, and got a support order entered with Dad having zero overnights, even though he was still paying all of the household bills. The Judge could have cared less about Mom's abuse of process. No sanctions, not even a warning. He even made Dad pay \$5,000 of Mom's lawyer fees. Eventually, the parties reconciled. Mom is adamant that her lawyer is the one who told her "how to win" in Court.

Case No. 5--Mom alleged Dad sexually abused kids, but the claim arose only after Dad filed for divorce after having discovered Mom having an affair. Mom told Dad that "her attorney told her that all she had to do was allege that sexual abuse occurred, and then Dad would never get joint custody in the divorce, even if the allegations were unsubstantiated." Dad had to fight the CPS investigation, criminal investigation, etc. In the end, his reputation was ruined --even though he was cleared of all claims. The case eventually settled with the Parties having joint custody, but not until Mom's claims were proven to be false and the Court had "figured out" what was going on in the case.

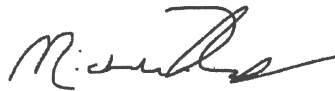
Case No. 6-Mom and Dad separated and when Dad sought custody and parenting time, Mom then alleged physical abuse against Dad. It was Mom's word against Dad's word, with Dad denying that any abuse ever occurred. Court still ordered Dad to only have supervised parenting time. The evidence is starting to show that Mom is actually the abuser, both physically and mentally, of Dad. Child was only 4 months old when the parties separated, and the custody battle commenced. Dad has now lost 7 months of being part of his son's life embroiled in litigation. Mom even admitted to an FOC worker that Dad was not really abusive. Mom has since made 2 additional false reports of stalking behavior and destruction of property against Dad, both of which the prosecutor did not decide to press any charges. In the first allegation, Mom claimed Dad keyed her car (she had no evidence and Dad had a rock solid alibi). On the other occasion, Mom claimed that she and some witnesses saw Dad "slashing her tires." Police determined that Mom never had to replace her tires, and the police also confirmed that Dad was under camera surveillance all day at work when the slashing allegedly occurred. Again, Dad had a rock solid alibi. Doubtful that the Court will take any action against Mom, and Mom's attorney is now desperate to settle since Mom's case is falling apart.

Remaining 5 cases there were genuine issues of domestic violence, untreated mental illness, or on-going substance abuse (denied) that precluded the sharing of custody and was an obstacle to settlement.

Alienation does occur; however, it doesn't happen in a vacuum. Alienation is a form of emotional abuse, and emotional abuse is considered domestic violence. Psychological maltreatment is the most prevalent and damaging type of child abuse that occurs today, yet it is rarely if ever, substantiated by Child Protective Services or recognized as such by the Court. I recently had a case where a parent was substantiated for a Category 2 emotional injury to a child (Category 1 is the worst), yet the Referee refused to accept the finding and said that in his "entire" legal career he had "*never*" seen a Category 2 emotional injury. This is where the Court is at today with regard to recognizing and being sensitive to emotional abuse, holding people accountable for abusive litigation practices and false allegations, etc. My practice is small, but not unique and most if not all divorce lawyers have similar stories to share.

Thank you for inviting me to speak today and to share my insights with the Committee. If you would like any additional assistance, please do not hesitate to contact me.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Michelle M. McLean", written in a cursive style.

Michelle M. McLean